being an action for damages. On appeal to the Supreme Court, *held*, the statute is constitutional, four judges dissenting on the ground that liability for damages, as opposed to mere compensation, cannot be imposed without fault. *Arizona Copper Co.* v. *Hammer* (1919) 39 Sup. Ct. 553.

It would seem that the Supreme Court in the instant case, though guarded in its language, has recognized the much debated principle that fault, while generally the basis of liability at common law, is, as far as the Constitution is concerned, indispensable only in so far as its existence is necessary to establish a causal connection between the acts out of which the liability arises and the injury sought to be remedied by the legislature. For discussion of the theory and constitutionality of similar statutes, see 10 Columbia Law Rev. 751; 11 Columbia Law Rev. 475; 15 Columbia Law Rev. 709. It is to be noted, however, that the statute in the instant case applies only to hazardous occupations, and the weighty dissent makes it doubtful whether the court will uphold similar statutes if applicable to non-hazardous occupations as well.

CONSTITUTIONAL LAW—LIBERTY OF SPEECH AND PRESS—ESPIONAGE ACT. —The appellants were convicted under the Espionage Act, 40 Stat. 219, as amended 40 Stat. 553, U. S. Comp. Stat. (1918) § 10212*c*, in the Federal District Court of printing and publishing, in New York City, circulars counselling a strike in munition factories, a general tie-up of industry, and armed resistance to the Government's Russian program. Their avowed and apparent purpose was to prevent intervention in Russia by the Associated Governments. The convictions were sustained by the Supreme Court, Justices Holmes and Brandeis dissenting on the ground that the Espionage Act, if constitutional, must contemplate actual intent to produce the effects complained of, which intent they found lacking in the instant case. *Abrams* v. *United States* (1919) 40 Sup. Ct. 17.

That "freedom of speech and of the press" does not compass unbounded license is well established, see *Robertson* v. *Baldwin* (1897) 165 U. S. 275, 281, 17 Sup. Ct. 326, its apparent intendment being to protect publications of an unharmful character, as measured by standards of the common law in force contemporaneously with the adoption of the constitutional provision. Cooley, Const. Lim. (7th ed.) 604, 605. And words which ordinarily would be within the privilege assured by that provision may become subject to prohibition when of such a nature, and used in such circumstances, as to create a clear and present danger that they will bring about substantive evils which Congress has power to prevent. Holmes, *J.*, in *Schenck* v. *United States* (1919) 249 U. S. 47, 39 Sup. Ct. 247. The same distinguished jurist has recognized that since, in time of war, but slight causation may be required for effecting far-reaching and disastrous consequences, persons who, with this knowledge, counsel resistance to the war program of the Government, are properly subject to Federal prosecution; the fact that interference with war activities was incidental to a propaganda involving expressions of a general and conscientious belief, being immaterial. *Debs* v. *United States* (1919) 249 U. S. 211, 39 Sup. Ct. 252. It is submitted that the instant case is indistinguishable as regards intent, from that last cited. Appellants' express disclaimer of German sympathy indicated realization that their conduct might result to the enemy interest. But even though the presence of sufficient criminal

intent be admitted, nevertheless, when analysed in the light of the principle enunciated in *Schenck* v. *United States, supra,* the majority opinion is hard to support on the facts.

CONTRACTS—RESTRAINT OF TRADE—COVENANT NOT TO ACT UNDER A PSEUDONYM.—The plaintiff film producing company employed the defendant as an actor under a contract which required him to use a pseudonym, and provided that at the termination of the employment the pseudonym should be the property of the plaintiff and that the defendant should not use it for any purpose whatever. The defendant built up a good reputation as an actor under that name, and later began to work for a rival company under the pseudonym. The plaintiff sought an injunction. *Held,* the contract was unenforceable. *Hepworth Mfg. Co., Ltd.* v. *Ryott* (Ch. D. 1919) The Weekly Notes (June 7, 1919) 171.

Since a person has a right to choose any name he pleases, *England* v. *New York Pub. Co.* (N. Y. 1878) 8 Daly 375, and the courts will protect him in its use, 17 Columbia Law Rev. 641, it would seem that the defendant in the instant case had a sufficient property right in the pseudonym to make it the subject of a contract. But the courts will uphold contracts in restraint of an individual's right to pursue his occupation only where they decide that the restraint is reasonable. An ancillary agreement by the vendor of a business and its good will, not to engage in similar business under the same name, will be enforced, since he may still use a different name. *Vernon* v. *Hallam* (1886) L. R. 34 Ch. D. 748; *cf. Burrows* v. *McMurtry Mfg. Co.* (1913) 54 Colo. 432, 131 Pac. 430. An agreement by an employee not to serve a competitor of his employer will be enforced where necessary to protect the latter's legitimate interests, *Eureka Laundry Co.* v. *Long* (1911) 146 Wis. 205, 131 N. W. 412, but not where the restriction is so broad in regard to time or space as to be unreasonable or unnecessary, *Mason* v. *Provident Clothing, etc., Co.* [1913] A. C. 724; *Leetham & Sons, Ltd.* v. *Johnstone-White* [1907] 1 Ch. 322, for it is against public policy to permit a man to bargain away his right to pursue the occupation in which he can best serve himself and society. *Herbert Morris, Ltd.* v. *Saxelby* [1916] 1 A. C. 688; *Rakestraw* v. *Lanier* (1898) 104 Ga. 188, 30 S. E. 735; see *Moorman & Givens* v. *Parkerson* (1911) 127 La. 835, 54 So. 47. The court in the instant case said that the pseudonym could not be the plaintiff's property after it became merged in the identity of the defendant, and that the agreement that he should not use it was tyrannous and oppressive in that it prevented him from obtaining the full market value of his services, and was not necessary to afford reasonable protection to the plaintiff, and hence was unenforceable.

CORPORATIONS—REDEMPTION OF DEBENTURES AT A DISCOUNT—CAPITAL OR PROFIT.—The defendant, an investment company whose charter provided that all profits and losses from change of investment should be carried to capital reserve account and should be disregarded in estimating the net profits from which alone dividends could be declared, redeemed at a discount of 22£ per cent perpetual debenture stock issued by it and redeemable at its option. The directors proposed to treat this difference as an item of net profits and to distribute it as dividends without regard to possible losses in other transactions. In